



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant : William F. Terrell
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Commissioner for Patents
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APPEAL BRIEF

Dear Sir:

Applicant submits, the following Appeal Brief pursuant to 37 C.F.R. § 41.37 for consideration by the Board of Patent Appeals and Interferences. Please charge any additional fees or credit any overpayment to our deposit Account No.02-2666. A duplicate copy of the Fee Transmittal is enclosed for this purpose.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Nortel Networks Limited.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences known to the appellants, the appellants' legal representative, or assignee, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-14, and 16-26 of the present application are pending. Claim 15 has been canceled, and claims 1-14, and 16-26 remain rejected. The Applicants hereby appeals the rejection of claims 1-14, and 16-26.

IV. STATUS OF AMENDMENTS

On January 29, 2007, Applicants filed a response to an Office Action dated October 27, 2006. The Examiner issued a Final Office Action on April 19, 2007. On July 18, 2007, the Applicant filed a Notice of Appeal and a Pre-Appeal Brief Review Request in response to the Final Office Action. No amendments have been filed subsequent to the final rejection. On November 15, 2007, the Review panel issued the Notice of Panel Decision stating that the application remains under appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER

1. Independent claims 1, 13, 21:

Independent claim 1 recites, "An apparatus (*Specification, page 8, line 9; line 15, network edge devices 110, 118, and 124; page 12, network device 200; Figure 2*) adapted to facilitate communications between a client device (*Specification, page 8, lines 8-10, plurality of clients; Figure 5, 112, 114, 116, 120, 122, 128, and 130*) and a remote device (*Specification, page 8, lines 8-10, plurality of clients; Figure 5, 112, 114, 116, 120, 122, 128, and 130*), comprising:

a network interface (*Specification, page 12, lines 18-20, network interface 204; Figure 2*) including (i) filters (*Specification, page 13, line 15; Figure 2, filter(s) 212*) including at least one filter being triggered to denote when a received packet satisfies filter criteria (*Specification, page 14, lines 1-2*) corresponding to an admission policy (*Specification, page 13, lines 20-22; page 14, line 8*) related to differentiated service levels (*Specification, page 10, lines 12-13*), and associated with the at least one filter and (ii) a classifier (*Specification, page 13, line 15; lines 20-22; Figure 2, classifier 214*), communicatively coupled to the filters, to classify and mark one of the service levels associated with the received data packet in response to satisfying the filter criteria associated with the at least one filter (*Specification, page 14, lines 11-15*); and

a controller (*Specification, page 12, line 19; Figure 2, admission controller 206*) coupled to the network interface, to dynamically create and remove the filters controlling access to the different service levels (*Specification, page 12, lines 21-22; page 14, lines 6-8*) based, at least in part, on an admission profile of the admission policy (*Specification, page 14, lines 6-8; page 16, lines 10-12; page 18, lines 8-18*).

Independent claim 13 recites, “A method for controlling provision of differentiated service levels in a data network (*Specification, page 17, lines 5-8; Figure 3, 300*), the method comprising:

(a) installing a filter on a network edge device to provide a trigger notification upon detecting data packets adhering to filter criteria (*Specification, page 17, lines 12-17; Figure 3, block 304*);

(b) determining whether a received data packet satisfies the filter criteria, (*Specification, page 18, lines 1-3; Figure 3, block 306*) the filter criteria (*Specification, page 14, lines 1-2*) corresponding to an admission policy (*Specification, page 13, lines 20-22; page 14, line 8*) related to the differentiated service levels (*Specification, page 10, lines 12-13*); and

(c) issuing a command (*Specification, page 17, lines 13-15*) by a bandwidth broker (*Specification, page 17, lines 13*) to a controller of the network edge device to dynamically install or remove a filter (*Specification, page 17, lines 13-16; page 19, lines 10-11*) in response to determining whether the received data packet satisfies the filter criteria (*Specification, page 14, lines 2-8*).”

Independent claim 21 recites, “An apparatus (*Specification, page 8, line 9; line 15, network edge devices 110, 118, and 124; page 12, network device 200; Figure 2*) adapted to facilitate communications between a client device (*Specification, page 8, lines 8-10, plurality of clients; Figure 5, 112, 114, 116, 120, 122, 128, and 130*) and a remote device (*Specification, page 8, lines 8-10, plurality of clients; Figure 5, 112, 114, 116, 120, 122, 128, and 130*), comprising:

filter means (*Specification, page 13, line 15; Figure 2, filter(s) 212*) for controlling access to differentiated service levels;

means for classifying and marking (*Specification, page 13, line 15; lines 20-22; Figure 2, classifier 214*) one of the service levels associated with the received data packet in response to satisfying filter criteria (*Specification, page 18, lines 1-3; Figure 3, block 306*) corresponding to an admission policy (*Specification, page 13, lines 20-22; page 14, line 8*) related to differentiated service levels (*Specification, page 10, lines 12-13*), and associated with the filter means, the means for classifying being communicatively coupled to the filter means; and

control means (*Specification, page 12, line 19; Figure 2, admission controller 206*) for dynamically creating and removing a portion of the filter means (*Specification, page 12, lines 21-22; page 14, lines 6-8*) based at least in part on an admission profile of the admission policy (*Specification, page 14, lines 6-8; page 16, lines 10-12; page 18, lines 8-18*).”

2. Dependent Claims 12 and 26:

Dependent claim 12 recites, “The apparatus of claim 11, wherein the controller removes at least one of the filters based, at least in part, on time-of-day (*Specification, page 20, lines 5-8*).”

Dependent claim 26 recites, “The apparatus of claim 25, wherein the control means removes at least one of the filters based, at least in part, on time-of-day (*Specification, page 20, lines 5-8*).”

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-11, 13, 14, and 16-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,341,130 issued to Lakshman et al. (“Lakshman”) in view of Barzilai et al. (“Barzilai”) “Design and

Implementation of an RSVP-Based Quality of Service Architecture for an Integrated Services Internet”, 1998 and in further view of U.S. Patent No. 6,651,101 issued to Gai et al. ("Gai").

2. Claims 12 and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lakshman, Barzilai, and Gai as applied to claims 1-11, 13, 14, and 16-25 above.

VII. ARGUMENTS

In the Final Office Action, the Examiner rejected: (1) claims 1-11, 13, 14, and 16-25 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,341,130 issued to Lakshman et al. ("Lakshman") in view of Barzilai et al. ("Barzilai") "Design and Implementation of an RSVP-Based Quality of Service Architecture for an Integrated Services Internet", 1998 and in further view of U.S. Patent No. 6,651,101 issued to Gai et al. ("Gai"). (2) claims 12 and 26 under 35 U.S.C. §103(a) as being unpatentable over Lakshman, Barzilai, and Gai as applied to claims 1-11, 13, 14, and 16-25 above.

Applicant respectfully traverses the rejections and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP §2143, p. 2100-126 to 2100-130 (8th Ed., Rev. 5, August 2006)*. Applicant respectfully submits that there is no suggestion or motivation to combine their teachings, and thus no *prima facie* case of obviousness has been established.

Furthermore, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated: "Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined." *MPEP 2141*. In *KSR International Co. vs. Teleflex, Inc.*, 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court

explained that “[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue.” The Court further required that an explicit analysis for this reason must be made. “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR 127 S.Ct.* at 1741, quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). In the instant case, Applicant respectfully submits that there are significant differences between the cited references and the claimed invention and there is no apparent reason to combine the known elements in the manner as claimed, and thus no *prima facie* case of obviousness has been established.

A. Claims 1-11, 13, 14, and 16-25 Are Not Unpatentable Over Lakshman In View of Barzilai And Further In View Of Gai.

In the Final Office Action, the Examiner rejected claims 1-11, 13, 14, and 16-25 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,341,130 issued to Lakshman et al. ("Lakshman") in view of Barzilai et al. ("Barzilai") "Design and Implementation of an RSVP-Based Quality of Service Architecture for an Integrated Services Internet", 1998 and in further view of U.S. Patent No. 6,651,101 issued to Gai et al. ("Gai"). Applicants respectfully traverse the rejection and submit that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

Lakshman discloses a packet classification method and apparatus employing two fields. In addition to packet forwarding function, a router may perform a packet filtering function (Lakshman, col. 1, lines 65-67). To perform packet filtering, the router may be provided with a table or list of filter rules specifying routing denial or action to be taken according to specified sources or source address (Lakshman, col. 2, lines 3-5). The general packet classification problem of a packet filter may be modeled as a point-location in a multi-dimensional space (Lakshman, col. 2, lines 49-51). A 2-dimensional filter rule operate on two fields S and D which correspond to the source address value and a group identifier (Lakshman, col. 4, lines 65-67; col. 5, lines 1-3).

Barzilai recites an RSVP-Based quality of service architecture for an integrated services Internet where a reservation protocol (RSVP)-based quality of service (QoS) is used. Barzilai merely discloses a session handle carried in the buffer header used as the classifier for session specific handling of the packet (Barzilai, page 398, col. 1, paragraph 1, 7th sentence). The session handle therefore is merely a message embedded in the buffer header, not a classifier coupled to the filter to classify and mark one of the differentiated service levels. Further, Barzilai teaches away from Applicant's claimed invention. For example, Barzilai calls for the use of "a statically compiled packet filter" (Barzilai, page 411, col. 2, paragraph 2).

Gai discloses a method and apparatus for identifying network data traffic flows and for applying quality of service treatments to the flows, as discussed above in the 35 U.S.C. §102(e) rejection.

Lakshman, Barzilai, and Gai, taken alone or in any combination, do not disclose, suggest, or render obvious, at least one of (1) a network interface including (i) filters including at least one filter being triggered to denote when a received packet satisfies filter criteria corresponding to an admission policy related to differentiated service levels, and associated with the at least one filter and (ii) a classifier, communicatively coupled to the filters, to classify and mark one of the service levels associated with the received data packet in response to satisfying the filter criteria associated with the at least one filter; and (2) a controller coupled to the network interface, to dynamically create and remove the filters controlling access to the different service levels based, at least in part, on an admission profile of the admission policy.

The Examiner contends that Lakshman discloses filters including at least one filter being triggered to denote when a received packet satisfies filter criteria corresponding to an admission policy (filter rules) related to differentiated service levels (Final Office Action, page 2, paragraph number 3). Applicant respectfully disagrees. The filter rules are not the admission policy. Filter rules may be based on source addresses, destination addresses, source ports, destination ports, and/or any combination of these fields (Lakshman, col. 2, lines 20-25). The filter merely performs a point-location in a multi-dimensional space (Lakshman, col. 2, lines 49-51). Point-location is not related to differentiated service levels. Furthermore, they are not dynamically created or removed based on an admission profile of the admission policy.

Barzilai merely discloses a session handle, not a classifier to classify and mark one of the differentiated service levels. The filters are set up at the routers and at the hosts to classify packets belonging to an RSVP flow, and to treat them in accordance with the reservation made for the flow (Barzilai, page 399, left column, lines 12-15). The filter therefore is a statically compiled packet filter for traffic classification during reservation set up signaling (Barzilai, page 411, right column, lines 13-15).

The Examiner contends that Barzilai teaches the QoS manager functions a control plane component primarily for the creation, modification, and removal of reservation filters associated with different flows as well as admission control (Final Office Action, page 3, paragraph number 4), citing Barzilai, 2nd column, 4th paragraph. Applicant respectfully disagrees. To ease reference, the cited excerpt is produced below.

“As mentioned before, the heart of our resource management and control architecture is the QoS Manager. From the functional point of view, it is a control plane component primarily responsible for the creation, modification, and removal of reservations associated with different flows. As the resource manager of the system, it also gets involved in the data path of the QoS connections.” (Barzilai, page 400, right column, 4th paragraph, section “QoS Manager”).

As seen from the above excerpt, Barzilai merely discloses creation, modification, and removal of reservations associated with different flows, not dynamically create and remove the filters controlling access to the different service levels. A reservation is not a filter controlling access to the different service levels. A reservation is merely a request to reserve network resource along the path of the data flow (Barzilai, page 398, left column, lines 1-5). An application can use the RAPI interface to the RSVP daemon, and communicate the endpoints of the connection (Barzilai, page 401, left column, lines 8-11). When a request is received for a new reservation, the QoS Manager sets up a reservation state for the connection (Barzilai, page 401, left column, second paragraph, section “Maintaining Reservation States”). Therefore, a reservation is a request made by an application to set up a new QoS connection. Since it is a request to set up a connection, it cannot control access to the different service levels. Accordingly, it is not a filter.

Furthermore, Barzilai merely discloses the QoS returns a buffer when an application makes a transmission request on a reserved connection using pre-allocated buffers (Barzilai, page 401, right column, lines 45-55). A pre-allocated buffer is a buffer

that has been allocated in advance. Accordingly, this is not based, at least in part, on an admission profile of the admission policy.

The Examiner further contends that Barzilai teaches the improvement of statically compiled packet filter by utilizing a general classifier for real-time packet forwarding and packet filters that provide general and flexible classification of incoming packets to application end points and dynamic code generation techniques that are applied to realize very efficient packet filters (Final Office Action, page 3, paragraph number 4). However, these filters do not have criteria corresponding to an admission policy related to differentiated service levels. They are merely used to classify packets based on the RSVP flow which is uniquely identified by the 5-tuple (protocol, src address, src port, dst address, dst port) (Barzilai, page 399, left column, lines 10-12). Dynamic code generation is not the same as dynamically creating and removing the filters based on an admission profile. Dynamic code generation is a technique to delay compilation until the executable is already running. The code of the packet filter is dynamically compiled, not the filter being dynamically created and removed. Furthermore, none of these filters are created or removed dynamically based on an admission profile of the admission policy.

In contrast, Applicant's claimed invention recites, *inter alia*, an apparatus to "dynamically create and remove filters controlling access to the different service levels based, at least in part, on an admissions profile," (Claim 1) a "method for controlling provision of differentiated services . . . comprising . . . (b) to dynamically install or remove a filter in response to determining whether the received data packet satisfies the filter criteria" (Claim 13), and an "apparatus adapted to facilitate communications between a client device and a remote device, comprising: filter means for controlling access to differentiated service levels; . . . and control means for dynamically creating and removing a portion of the filter means based at least in part on an admission profile." (Claim 21).

The Examiner concedes that the specific of dynamic code generation in regards to dynamic filtering are not explicitly disclosed by Lakshman and Barzilai, but contends that Gai discloses dynamic filtering (Final Office Action, page 4, lines 2-6). Applicant respectfully disagrees. Gai merely discloses applying the prescribed policy or service treatments to the given traffic flow (Gai, col. 4, lines 61-65). Gai is distinguishable from the claimed invention in many aspects. First, a policy or service treatments is not equivalent to a filter. Second, "applying" is not the same as "creating" or "removing".

“Applying” implies using something already in existence. In contrast, “creating” means constructing a new filter, and “removing” means eliminating a filter. None of these deals with a filter in existence. Third, a “prescribed” policy means that the policy has been fixed. Therefore, it cannot be dynamically created or removed.

Accordingly, none of Lakshman, Barzilai, and Gai suggests dynamically creating and removing filters. Lakshman merely disclose filter rules, not admission policy. Barzilai merely discloses reservation requests, not filters, and refers to dynamic code generation to delay compilation of the code for the packet filters, not dynamically creating or removing the filters. Gai merely discloses applying rules or treatments to specific traffic flows, not dynamically creating or removing filters. Accordingly, there is no suggestion to combine the cited references. Thus, no prima facie case of obviousness has been established.

B. Claims 12 and 26 Are Not Unpatentable Over Lakshman In View of Barzilai And Further In View Of Gai As Applied To Claims 1-11, 13, 14, and 16-25 Above.

In the Office Action, the Examiner rejected claims 12 and 26 under 35 U.S.C. §103(a) as being unpatentable over Lakshman, Barzilai, and Gai as applied to claims 1-11, 13, 14, and 16-25 above. Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a prima facie case of obviousness.

The Examiner takes official notice that a network administrator having the capability to remove filters based on an expiration of day or time of data is well known in the networking art at the time of the invention (Final Office Action, page 11, lines 3-6). However, if the Official Notice is taken of a fact, unsupported by documentary evidence, the technical line of reasoning underlying a decision to take such notice must be clear and unmistakable. MPEP 2144.03B, page 2100-132, Rev 2, Feb. 2003. Here, Lakshman or Barzilai does not disclose or suggest removing a filter. The Examiner fails to present a technical line of reasoning to show the official notice that controller dynamically removing a filter based on time of day is clear and unmistakable.

Applicant submits that the Examiner did not meet the burden of providing evidentiary showing first before taking official notice, as required by MPEP 2144.04B. In response to Applicants’ arguments, the Examiner states that a traversal by the Applicants

that is merely a bald challenge, with nothing more, will be given little weight (Final Office Action, page 11, lines 15-17), citing In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971). Applicant respectfully disagrees and submits that Boon does not stand for that proposition. In Boon, the Examiner considered the rotary feeder disclosed by the prior art reference as the equivalent of a double door in the claimed invention. The Board affirmed the Examiner's decision and provided a reasoning to support its decision. The Board further included a definition taken from the dictionary to support the decision. The Court agreed with the Board, stating "...such a reference is a standard work, cited only to support a fact judicially noticed and, as here, the fact so noticed plays a minor role, serving only 'to fill the gaps' which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection." (Emphasis added.) The Court went on to state that "[w]e did not mean to imply...that a bald challenge, with nothing more, would be all that was needed..." Therefore, the Court in Boon simply states that since the Board took judicial notice to support evidentiary showing by the Examiner, Applicants cannot make a bald challenge to that judicial notice. In contrast, in the instant case, the Examiner did not meet the burden of providing evidentiary showing first before taking official notice, as required by MPEP 2144.04B. The evidentiary showing must include a technical line of reasoning to show the official notice that controller dynamically removing a filter based on time of day is clear and unmistakable. The Examiner also failed to show that the network administrator is equivalent to the controller or the control means, recited in claims 12, 26, and having the characteristics as recited in claims 1 or 21.

Furthermore, even though "time-of-day" is a feature well known in the prior art, this is not claimed in isolation. Claims 12 and 26 recite the controller or control means removes at least one of the filters based on time-of-day. The Examiner has not shown that Official Notice suggests: (1) the controller or control means, and (2) removes at least one of the filters.

In summary, the Examiner failed to establish a prima facie case of obviousness and failed to show there is teaching, suggestion, or motivation to combine the references. When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of

impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). “When determining the patentability of a claimed invention which combined two known elements, ‘the question is whether there is something in the prior art as a whole suggest the desirability, and thus the obviousness, of making the combination.’” In re Beattie, 974 F.2d 1309, 1312 (Fed. Cir. 1992), 24 USPQ2d 1040; Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1462, 221 USPQ (BNA) 481, 488 (Fed. Cir. 1984). To defeat patentability based on obviousness, the suggestion to make the new product having the claimed characteristics must come from the prior art, not from the hindsight knowledge of the invention. Interconnect Planning Corp. v. Feil, 744 F.2d 1132, 1143, 227 USPQ (BNA) 543, 551 (Fed. Cir. 1985). To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the Examiner to show a motivation to combine the references that create the case of obviousness. In other words, the Examiner must show reasons that a skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the prior elements from the cited prior references for combination in the manner claimed. In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1996), 47 USPQ 2d (BNA) 1453. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or implicitly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” Ex parte Clapp, 227 USPQ 972, 973. (Bd.Pat.App.&Inter. 1985). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Furthermore, although a prior art device “may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.” In re Mills 916 F.2d at 682, 16 USPQ2d at 1432; In re Fritch, 972 F.2d 1260 (Fed. Cir. 1992), 23 USPQ2d 1780.

Moreover, the Examiner failed to establish the factual inquires in the three-pronged test as required by the *Graham* factual inquires. There are significant differences between Lakshman, Barzilai, and Gai and the claimed invention as discussed above. Furthermore,

the Examiner has not made an explicit analysis on the apparent reason to combine the known elements in the fashion in the claimed invention. Accordingly, there is no apparent reason to combine the teachings of Lakshman, Barzilai, and Gai.

In the present invention, the cited references do not expressly or implicitly suggest any of the above elements. In addition, the Examiner failed to present a convincing line of reasoning as to why a combination of Lakshman, Barzilai, and Gai is an obvious application of dynamically controlling the provision of differentiated services, or an explicit analysis on the apparent reason to combine Lakshman, Barzilai, and Gai in the manner as claimed.

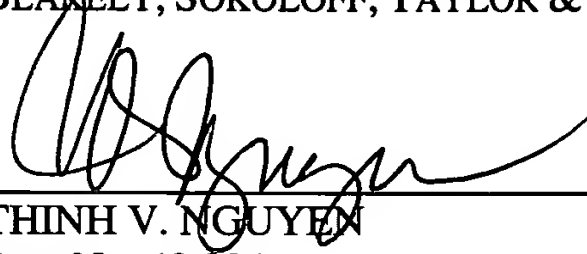
Therefore, Applicant believes that independent claims 1, 13, and 21, and their respective dependent claims are distinguishable over the cited prior art references.

VIII. CONCLUSION

Applicant respectfully requests that the Board enter a decision overturning the Examiner's rejection of all pending claims, and holding that the claims satisfy the requirements of 35 U.S.C. §103.

Respectfully submitted,

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IX. CLAIM APPENDIX

The claims of the present application which are involved in this appeal are as follows:

1. (previously presented) An apparatus adapted to facilitate communications between a client device and a remote device, comprising:

a network interface including (i) filters including at least one filter being triggered to denote when a received packet satisfies filter criteria corresponding to an admission policy related to differentiated service levels, and associated with the at least one filter and (ii) a classifier, communicatively coupled to the filters, to classify and mark one of the service levels associated with the received data packet in response to satisfying the filter criteria associated with the at least one filter; and

a controller coupled to the network interface, to dynamically create and remove the filters controlling access to the different service levels based, at least in part, on an admission profile of the admission policy.

2. (previously presented) The apparatus of claim 1, wherein the at least one filter when triggered, initiate an admission control decision preventing premature allocation of service level resources which are not yet required or authorized.

3. (previously presented) The apparatus of claim 2, wherein each of the filters is triggered by information contained within the received data packet.

4. (previously presented) The apparatus of claim 3, wherein each of the filters is triggered by one or both of packet source information and packet destination information.

5. (original) The apparatus of claim 1, wherein the admissions profile is stored in a communicatively coupled remote device.

6. (original) The apparatus of claim 5, wherein the communicatively coupled remote device is a bandwidth broker or other generic policy server.

7. (original) The apparatus of claim 1, wherein the admissions profile is available locally within the apparatus.

8. (previously presented) The apparatus of claim 1, wherein the controller establishes an ingress profile in response to detecting an associated trigger event, wherein the ingress profile modifies the received data packet adhering to the filter criteria to denote a particular service level, in accordance with the admissions profile.

9. (original) The apparatus of claim 8, wherein the controller removes ingress profiles when data packets adhering to the filter criteria are no longer received, liberating apparatus resources.

10. (original) The apparatus of claim 8, wherein the controller removes ingress profiles after a predetermined period of time, liberating apparatus resources.

11. (previously presented) The apparatus of claim 1, wherein the controller removes at least one of the filters in accordance with a network administration policy.

12. (previously presented) The apparatus of claim 11, wherein the controller removes at least one of the filters based, at least in part, on time-of-day.

13. (previously presented) A method for controlling provision of differentiated service levels in a data network, the method comprising:

(a) installing a filter on a network edge device to provide a trigger notification upon detecting data packets adhering to filter criteria;

(b) determining whether a received data packet satisfies the filter criteria, the filter criteria corresponding to an admission policy related to the differentiated service levels; and

(c) issuing a command by a bandwidth broker to a controller of the network edge device to dynamically install or remove a filter in response to determining whether the received data packet satisfies the filter criteria.

14. (previously presented) The method of claim 13, further comprising (d) marking the received data packets adhering to the filter criteria according to a subscribed service level.

15. (canceled)

16. (previously presented) The method of claim 14, wherein the marking of the received data packet includes setting a logic value of a bit in a Type of Service (ToS) field of a header of the data packet.

17. (previously presented) The method of claim 14 further comprising:

(e) identifying and marking the received data packets with routing information in accordance with the subscribed service level.

18. (previously presented) The method of claim 17 further comprising:

(f) placing the data packets in a proper format for transmission.

19. (previously presented) The apparatus of claim 1, wherein the classifier marks a Type of Service (ToS) field of the received data packet to denote a level of service for transmission of the data packet.

20. (previously presented) The apparatus of claim 1, wherein the controller further dynamically controls access to at least one classifier profile in accordance with the admission profile.

21. (previously presented) An apparatus adapted to facilitate communications between a client device and a remote device, comprising:

filter means for controlling access to differentiated service levels;

means for classifying and marking one of the service levels associated with the received data packet in response to satisfying filter criteria corresponding to an admission policy related to differentiated service levels, and associated with the filter means, the means for classifying being communicatively coupled to the filter means; and

control means for dynamically creating and removing a portion of the filter means based at least in part on an admission profile of the admission policy.

22. (previously presented) The apparatus of claim 21, wherein the admissions profile is stored in a communicatively coupled remote device.

23. (previously presented) The apparatus of claim 22, wherein the communicatively coupled remote device is a bandwidth broker or other generic policy server.

24. (previously presented) The apparatus of claim 21, wherein the filter means comprises a plurality of filters.

25. (previously presented) The apparatus of claim 24, wherein the control means removes at least one of the filters in accordance with a network administration policy.

26. (previously presented) The apparatus of claim 25, wherein the control means removes at least one of the filters based, at least in part, on time-of-day.

XI. EVIDENCE APPENDIX

None

XII. RELATED PROCEEDINGS APPENDIX

None